

FEMALE YOUTHFUL OFFENDER

1. Disputes

If Contractor believes that there is a dispute or grievance between Contractor and the State and the State arising out of, or relating to, this contract, Contractor shall first discuss and attempt to resolve the issue informally with DJJ's project coordinator. If the issue cannot be resolved at this level, Contractor shall abide by the following procedures:

- A. The acceptance by contractor of final payment shall release the California Department of Corrections and Rehabilitation (CDCR) from all claims, demands and liability to contractor for everything done or furnished in connection with this work and from every act and neglect of CDCR and others relating to or arising out of this work except for any claim previously accepted and/or in process of resolution.
- B. Contractor must submit a letter of appeal to DJJ's Chief Deputy Secretary explaining why the Director of Program's decision is unacceptable. The letter must include, as an attachment, copies of the Contractor's original grievance report, evidence originally submitted, and response from DJJ's project coordinator. Contractor's letter of appeal must be submitted within ten working days of the receipt of the Director of Program's written decision. The Chief Deputy Secretary shall, within twenty working days of receipt of Contractor's letter of appeal, review the issues raised and shall render a written decision to the Contractor. The decision of the Chief Deputy Secretary shall be final.

2. Right to Terminate

DJJ reserves the right to terminate this Agreement subject to thirty (30) calendar days written notice to the contractor. Contractor may submit a written request to terminate this Agreement only if DJJ should substantially fail to perform its responsibilities as provided herein.

Additionally, DJJ reserves the right to terminate this Agreement subject to thirty (30) calendar days written notice to the contractor should it be later identified as a service which can be consolidated into a statewide/regionalized Agreement. DJJ may exercise its option to cancel the remaining years of this Agreement, should it be decided that with additional institutions and/or sites, DJJ will receive a better rate for the same service.

However, the Agreement can be immediately terminated for cause. The term "for cause" shall mean that the contractor fails to meet the terms, conditions, and/or responsibilities of the Agreement. In this instance, the Agreement termination shall be effective as of the date indicated on the DJJ's notification to the contractor.

This Agreement may be suspended or cancelled without notice, at the option of the contractor, if the contractor or DJJ's premises or equipment are destroyed by fire or other catastrophe, or so substantially damaged that it is impractical to continue service, or in the event the contractor is unable to render service as a result of any action by any governmental authority.

3. Amendments

The contract may be amended. The amendment must be in writing, signed by the parties and approved as required. No oral understanding or agreement not incorporated in the contract is binding on any of the parties.

4. Evaluation of Contractor

Performance of the Contractor under this Agreement will be evaluated. The evaluation shall be prepared on Contract/Contractor Evaluation Sheet (STD 4), and maintained in the Agreement file. For consultant agreements, a copy of the evaluation will be sent to the Department of General Services, Office of Legal Services, if it is negative and over \$5,000 (PCC 10369).

5. Responsibility Hearing

If this Agreement is terminated for cause, CDCR reserves the right to conduct a responsibility hearing to determine if the contractor is a responsible bidder before an award of future Agreements can be made.

6. Confidentiality of Data

All financial, statistical, personal, technical and other data and information relating to State's operation, which are designated confidential by the State and made available to carry out this Agreement, or which become available to the contractor in order to carry out this Agreement, shall be protected by the contractor from unauthorized use and disclosure.

If the methods and procedures employed by the contractor for the protection of the contractor's data and information are deemed by the State to be adequate for the protection of the State's confidential information, such methods and procedures may be used with the written consent of the State. The contractor shall not be required under the provisions of this paragraph to keep confidential any data already rightfully in the contractor's possession that is independently developed by the contractor outside the scope of the Agreement or is rightfully obtained from third parties.

No reports, information, inventions, improvements, discoveries, or data obtained, repaired, assembled, or developed by the contractor pursuant to this Agreement shall be released, published, or made available to any person (except to the State) in violation of any State or federal law.

Contractor by acceptance of this Agreement is subject to all of the requirements of California Government Code Section 11019.9 and California Civil Code Sections 1798, et seq., regarding the collection, maintenance, and disclosure of personal and confidential information about individuals.

7. Confidentiality of Information

DJJ and Provider agree that all female offenders' information is identified as confidential and shall be held in trust and confidence and shall be used only for the purposes contemplated under this Agreement. Provider by acceptance of this Agreement is subject to all of the requirements of the Welfare and Institutions Code Sections 827 and 1764; regarding Juvenile case file inspection; confidentiality; release; probation reports; destruction of records; liability; records and disclosure of Juveniles. In addition, the federal regulations implementing the Health Insurance Portability and Accountability Act of 1996 (Code of Federal Regulations (CFR), Title 45, Sections 164.501 et seq.); the California Government Code Section 11019.9; the California Civil Code Sections 56 et seq.; and California Civil Code Sections 1798,

et seq.; regarding the collections, maintenance, and disclosure of personal and confidential information about individuals.

8. Contractor Employee Misconduct

Public Entity Agreements and Interagency Agreements

During the performance of this Agreement, it shall be the responsibility of the contractor whenever there is an incident of use of force or allegation(s) of employee misconduct associated with and directly impacting female offender rights, to immediately notify the CDCR of the incident(s), to cause an investigation to be conducted, and to provide CDCR with all relevant information pertaining to the incident(s). All relevant information includes, but is not limited to: a) investigative reports; b) access to female offenders and the associated staff; c) access to employee personnel records; d) that information reasonably necessary to assure CDCR that female offenders are not or have not been deprived of any legal rights as required by law, regulation, policy and procedures; and e) written evidence that the contractor has taken such remedial action, in the event of unnecessary or excessive force, or employee misconduct with female offenders, as will assure against a repetition of incident(s) or retaliation. To the extent that the information provided by the contractor fails to so assure CDCR, CDCR may require that any implicated contractor staff be denied access to and the supervision of CDCR female offenders at the facility and access to female offender records. Notwithstanding the foregoing, and without waiving any obligation of the contractor, CDCR retains the power to conduct an independent investigation of any incident(s). Furthermore, it is the responsibility of the contractor to include the foregoing terms within any and all subcontracts, requiring that subcontractor(s) agree to the jurisdiction of CDCR to conduct an investigation of their facility and staff, including review of subcontractor employee personnel records, as a condition of the Agreement.

Agreements with Private Entities

During the performance of this Agreement, it shall be the responsibility of the contractor whenever there is an allegation of employee misconduct associated with and directly impacting female offender rights, to immediately notify the CDCR of the incident(s), to cause an investigation to be conducted, and to provide CDCR with all relevant information pertaining to the incident(s). All relevant information includes, but is not limited to: a) investigative reports; b) access to female offenders and the associated staff; c) access to employee personnel records; d) that information reasonably necessary to assure CDCR that female offenders are not or have not been deprived of any legal rights as required by law, regulation, policy and procedures; and e) written evidence that the contractor has taken such remedial action, in the event of employee misconduct with female offender, as will assure against a repetition of the incident(s). Notwithstanding the foregoing, and without waiving any obligation of the contractor, CDCR retains the power to conduct an independent investigation of any incident(s). Furthermore, it is the responsibility of the contractor to include the foregoing terms within any and all subcontracts, requiring that subcontractor(s) agree to the jurisdiction of CDCR to conduct an investigation of their facility and staff, including review of subcontractor employee personnel records, as a condition of the Agreement.

9. Workers' Compensation

Contractor hereby represents and warrants that Contractor is currently and shall, for the duration of this agreement, carry workers' compensation insurance, at Contractor's expenses, or that it is self-insured through a policy acceptable to DJJ, for all of its employees who will be engaged in the performance of this agreement. Such coverage will be a condition of DJJ's obligation to pay for services provided under this agreement.

Prior to approval of this agreement and before performing any work, Contractor shall furnish to the State evidence of valid workers' compensation coverage. Contractor agrees that the workers' compensation insurance shall be in effect at all times during the term of this agreement. In the event said insurance coverage expires or is canceled at any time during the term of this agreement, Contractor agrees to give at least thirty (30) days prior notice to DJJ before said expiration date or immediate notice of cancellation. Evidence of coverage shall not be for less than the remainder of the term of the agreement or for a period of not less than one year. The State reserves the right to verify the Contractor's evidence of coverage. In the event the Contractor fails to keep workers' compensation insurance coverage in effect at all times, the State reserves the right to terminate this agreement and seek any other remedies afforded by the laws of this State.

Contractor also agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all of Contractor's workers' compensation claims and losses by Contractor's officers, agents and employees related to the performance of this agreement.

10. Disabled Veteran Business Enterprise (DVBE)

- a. If this Agreement is in excess of \$15,000, contractor shall fulfill, to the best of contractor's ability, their obligations in dispensing that portion of the Agreement amount to the DVBE as identified in the reply to the DVBE Mandatory Participation Requirement. Said reply by reference is a part of this Agreement and is on file and available for review Monday through Friday between the hours of 9:00 a.m. and 4:00 p.m. at the contracting location.
- b. In the event the Agreement is amended to increase the amount, contractor will be required to comply with the CDCR's DVBE participation requirement for the amended amount.
- c. Contractor agrees that the State or its delegate will have the right to review, obtain, and copy all records pertaining to performance of the Agreement. Contractor agrees to provide the State or its delegate with any relevant information requested and shall permit the State or its delegate access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees, inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with Public Contract Code Section 10115 et seq., and Title 2, California Code of Regulations (CCR), Section 1896.60 et seq. Contractor further agrees to maintain such records for a period of three (3) years after final payment under the Agreement (Title 2, CCR, Section 1896.75).

11. Small Business and DVBE Participation – Commercially Useful Functions

This solicitation and any resulting Agreement shall be subject to all requirements as set forth in AB 669, Statutes of 2003 pertaining to the following code sections:

Government Code Sections 14837, 14838.6, 14839, 14842, 14842.5

Military and Veterans Code (MVC) Sections 999, 999.6, 999.9

In part, these code sections involve requirements to qualify as a California certified Small Business, Microbusiness and DVBE. Effective January 1, 2004, the aforementioned companies must perform a **commercially useful function** to be eligible for award. AB 669 also requires that the DVBE be “domiciled” in California. Failure of the supplier to comply with the definition of and detailed requirements for providing a **commercially useful function** will cause the supplier's bid response to be considered non-responsive and their bid will be rejected. Also, contractors found to be in violation of certain provisions contained within these code sections may be subject to loss of certification, penalties and Agreement cancellation.

12. Computer Software Management Memo

Contractor certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.

13. Accounting Principles

The contractor will adhere to generally accepted accounting principles as outlined by the American Institute of Certified Public Accountants. Dual compensation is not allowed; a contractor cannot receive simultaneous compensation from two or more funding sources for the same services performed even though both funding sources could benefit.

14. Liability for Nonconforming Work

The contractor will be fully responsible for ensuring that the completed work conforms to the agreed upon terms. If nonconformity is discovered prior to the contractor's deadline, the contractor will be given a reasonable opportunity to cure the nonconformity. If the nonconformity is discovered after the deadline for the completion of the project, DJJ, in its sole discretion, may use any reasonable means to cure the nonconformity. The contractor shall be responsible for reimbursing DJJ for any additional expenses incurred to cure such defects.

15. Subcontractor/Consultant Information

Contractor is required to identify all subcontractors and consultants who will perform labor or render services in the performance of this Agreement. Additionally, the contractor shall notify the Department of Corrections and Rehabilitation, Office of Business Services, in writing, within ten (10) working days, of any changes to the subcontractor and/or consultant information.

16. Contract Violations

The contractor acknowledges that any violation of Chapter 2, or any other chaptered provision of the Public Contract Code (PCC), is subject to the remedies and penalties contained in PCC Sections 10420 through 10425.

17. Temporary Nonperformance

If, because of mechanical failure or for any other reason, the contractor shall be temporarily unable to perform the work as required, the State, during the period of the contractor's inability to perform, reserves the right to accomplish the work by other means and shall be reimbursed by the contractor for any additional costs above the Agreement price.

18. Extension of Term

This Agreement may be amended to extend the term if it is determined to be in the best interest of the State. Upon signing the amendment, contractor hereby agrees to provide services for the extended period at the rates specified in the original Agreement.

19. Employment of Ex-Offenders

Contractor cannot and will not either directly, or on a subcontract basis, employ in connection with this Agreement:

- a. Ex-Offenders on active parole or probation;
- b. Ex-Offenders at any time if they are required to register as a sex offender pursuant to Penal Code Section 290 or if such ex-offender has an offense history involving a "violent felony" as defined in subparagraph (c) of Penal Code Section 667.5; or
- c. Any ex-felon in a position which provides direct supervision of females.

Ex-Offenders who can provide written evidence of having satisfactorily completed parole or probation may be considered for employment by the contractor subject to the following limitations:

- a. Contractor shall obtain the prior written approval to employ any such ex-offender from the Authorized Administrator; and
- b. Any ex-offender whose assigned duties are to involve administrative or policy decision-making; accounting, procurement, cashiering, auditing, or any other business-related administrative function shall be fully bonded to cover any potential loss to the State of California.

20. Electronic Waste Recycling

The Contractor certifies that it complies with the requirements of the Electronic Waste Recycling Act of 2003, Chapter 8.5, Part 3 of Division 30, commencing with Section 42460 of the Public Resources Code, relating to hazardous and solid waste. Contractor shall maintain documentation and provide reasonable access to its records and documents that evidence compliance.

21. Excise Tax

The State of California is exempt from federal excise taxes; no payment will be made for any taxes levied on employees' wages. The State will pay for any applicable State of California or

local sales or use taxes on the services rendered or equipment or parts supplied pursuant to this Agreement. California may pay any applicable sales and use tax imposed by another state.

22. Licenses and Permits

The contractor shall be an individual or firm licensed to do business in California and shall obtain at contractor's expense all license(s) and permit(s) required by law for accomplishing any work required in connection with this Agreement.

In the event any license(s) and/or permit(s) expire at any time during the term of this Agreement, contractor agrees to provide the DJJ with a copy of the renewed license(s) and/or permit(s) within thirty (30) days following the expiration date. In the event the contractor fails to keep in effect at all times all required license(s) and permit(s), the State may, in addition to any other remedies it may have, terminate this Agreement upon occurrence of such event.

23. Permits and Certifications from State Board of Equalization

This solicitation and any resulting contract shall be subject to all requirements as set forth in Sections 6487, 7101 and sections 6452.1, 6487.3, 18510 of the Revenue and Taxation Code, and section 10295.1 of the Public Contract Code requiring suppliers to provide a copy of their reseller's permit or certification of registration and, if applicable, the permit or certification of all participating affiliates, issued by California's State Board of Equalization. Effective January 1, 2004, awarding departments must obtain, prior to award, copies of the permits or certifications from the proposed awardee. Failure of the supplier to comply by supplying the required permit or certification will cause the supplier's bid response to be considered non-responsive and their bid rejected. Unless otherwise specified in this solicitation, a copy of the reseller's permit or certification of registration must be supplied within five (5) state business days of the request made by the State.

24. Conflict of Interest

The contractor and their employees shall abide by the provisions of Government Code (GC) Sections 1090, 81000 et seq., 82000 et seq., 87100 et seq., and 87300 et seq., Public Contract Code (PCC) Sections 10335 et seq. and 10410 et seq., California Code of Regulations (CCR), Title 2, Section 18700 et seq. and Title 15, Section 3409, and the Department Operations Manual (DOM) Section 31100 et seq. regarding conflicts of interest.

a. Contractors and Their Employees

Consultant contractors shall file a Statement of Economic Interests, Fair Political Practices Commission (FPPC) Form 700 prior to commencing services under the Agreement, annually during the life of the Agreement, and within thirty (30) days after the expiration of the Agreement. Other service contractors and/or certain of their employees may be required to file a Form 700 if so requested by the CDCR or whenever it appears that a conflict of interest may be at issue. Generally, service contractors (other than consultant contractors required to file as above) and their employees shall be required to file an FPPC Form 700 if one of the following exists:

- (1) The Agreement service has been identified by the CDCR as one where there is a greater likelihood that a conflict of interest may occur;

- (2) The contractor and/or contractor's employee(s), pursuant to the Agreement, makes or influences a governmental decision; or
- (3) The contractor and/or contractor's employee(s) serves in a staff capacity with the DJJ and in that capacity participates in making a governmental decision or performs the same or substantially all the same duties for the CDCR that would otherwise be performed by an individual holding a position specified in the DJJ's Conflict of Interest Code.

b. Current State Employees

- (1) No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- (2) No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.
- (3) In addition to the above, DJJ officials and employees shall also avoid actions resulting in or creating an appearance of:
 - (a) Using an official position for private gain;
 - (b) Giving preferential treatment to any particular person;
 - (c) Losing independence or impartiality;
 - (d) Making a decision outside of official channels; and
 - (e) Affecting adversely the confidence of the public or local officials in the integrity of the program.
- (4) Officers and employees of the Department must not solicit, accept or receive, directly or indirectly, any fee, commission, gratuity or gift from any person or business organization doing or seeking to do business with the State.

c. Former State Employees

- (1) For the two year (2-year) period from the date he or she left state employment, no former state officer or employee may enter into an Agreement in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the Agreement while employed in any capacity by any state agency.
- (2) For the twelve-month (12-month) period from the date he or she left state employment, no former state officer or employee may enter into an Agreement with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed Agreement within the 12-month period prior to his or her leaving state service.

In addition to the above, the contractor shall avoid any conflict of interest whatsoever with respect to any financial dealings, employment services, or opportunities offered to inmates or parolees. The contractor shall not itself employ or offer to employ inmates or parolees either directly, or indirectly through an affiliated company, person or business unless specifically authorized in writing by the DJJ. In addition, the contractor shall not (either directly, or indirectly through an affiliated company, person or business) engage in financial dealings with inmates or parolees, except to the extent that such financial dealings create no actual or potential conflict of interest, are available on the same terms to the general public, and have been approved in advance in writing by the DJJ. For the purposes of this paragraph, "affiliated company, person or business" means any company, business, corporation, nonprofit corporation, partnership, limited partnership, sole proprietorship, or other person or business entity of any kind which has

any ownership or control interest whatsoever in the contractor, or which is wholly or partially owned (more than 5% ownership) or controlled (any percentage) by the contractor or by the contractor's owners, officers, principals, directors and/or shareholders, either directly or indirectly. "Affiliated companies, persons or businesses" include, but are not limited to, subsidiary, parent, or sister companies or corporations, and any company, corporation, nonprofit corporation, partnership, limited partnership, sole proprietorship, or other person or business entity of any kind that is wholly or partially owned or controlled, either directly or indirectly, by the contractor or by the contractor's owners, officers, principals, directors and/or shareholders.

The contractor shall have a continuing duty to disclose to the State, in writing, all interests and activities that create an actual or potential conflict of interest in performance of the Agreement.

The contractor shall have a continuing duty to keep the State timely and fully apprised in writing of any material changes in the contractor's business structure and/or status. This includes any changes in business form, such as a change from sole proprietorship or partnership into a corporation or vice-versa; any changes in company ownership; any dissolution of the business; any change of the name of the business; any filing in bankruptcy; any revocation of corporate status by the Secretary of State; and any other material changes in the contractor's business status or structure that could affect the performance of the contractor's duties under the Agreement.

If the contractor violates any provision of the above paragraphs, such action by the contractor shall render this Agreement void.

Members of boards and commissions are exempt from this section if they do not receive payment other than payment for each meeting of the board or commission, payment for preparatory time and payment for per diem.

25. Insurance Requirements

Insurance as required herein shall be a condition of the State's obligation to pay for services provided under this Agreement. Prior to approval of this Agreement and before performing any work, Contractor and any subcontractor shall furnish to the State evidence of valid coverage. The following shall be considered evidence of coverage: A certificate of insurance, a "true and certified" copy of the policy, or any other proof of coverage issued by Contractor's insurance carrier. Binders are not acceptable as evidence of coverage. Providing evidence of coverage to the State conveys no rights or privileges to the State, nor does it insure any State employee or insure any premises owned, leased, used by or otherwise or under the control of the State. It does, however, serve to provide the State with proof that the Contractor and any subcontractor is insured at the minimum levels required by the State of California.

Contractor agrees that any liability insurance required in the performance of this Agreement shall be in effect at all times during the term of this Agreement. In the event said insurance coverage expires or is canceled during the term of this Agreement, Contractor's insurance provider must agree to give at least thirty (30) days prior notice to the State before said expiration date or notice of cancellation. Evidence of coverage required in the performance of this Agreement shall not be for less than the remainder of the term of this Agreement or for a period of not less than one year. The State and the Department of General Services (DGS) reserve the right to verify the Contractor's evidence of coverage; evidence of coverage is subject to the approval of the DGS. In the event the Contractor fails to keep insurance coverage as required herein in effect at all times, the State reserves the right to terminate this Agreement and to seek any other remedies afforded by the laws of the State of California.

26. Disclosure

Neither the State nor any State employee will be liable to the contractor or its staff for injuries inflicted by female offenders of the State. The State agrees to disclose to the contractor any statement(s) known to State staff made by any female offender which indicates violence may result in any specific situation, and the same responsibility will be shared by the contractor in disclosing such statement(s) to the State.

27. Security Clearance/Fingerprinting

The State reserves the right to conduct fingerprinting and/or security clearance through the Department of Justice, Bureau of Criminal Identification and Information (BCII), prior to award and at any time during the term of the Agreement, in order to permit Contractor and/or Contractor's employees access to State premises. The State further reserves the right to terminate the Agreement should a threat to security be determined.

28. Notification of Personnel Changes

Contractor must notify the State, in writing, of any changes of those personnel allowed access to residential facility premises for the purpose of providing services under this Agreement

29. Non Eligible Alien Certification

By signing this Agreement Contractor certifies, under penalty of perjury, that Contractor, if a sole proprietor, is not a nonqualified alien as that term is defined by the United States Code (U.S.C.) Title 8, Chapter 14, Section 1621 et seq.

30. Publications – Alternative Formats

In accordance with the California Government Code, Section 11135 and Title II, ADA requirements, publications that are made available through this contract must include the following statements: "This publication can be made available in Braille, large print, computer disk, or tape cassette as a disability-related reasonable accommodation for an individual with a disability." In addition, publications must be made available in other languages if requested by a limited English proficient person. Contractor is responsible for providing publication alternative formats.

The following provisions apply to services provided:

31. Progress Reports

The CDCR Program Manager and the contractor shall confer as often as necessary, but not less than monthly, to review progress and performance. The review criteria shall include, but not be limited to, problems encountered during the Agreement, future performance, and other subjects relating to completion of specified tasks. A copy of each review shall be prepared by the following CDCR Program Manager and forwarded to the Contractor.

CDCR Program Manager:
Address

DJJ Female Youthful Offender Program Manager
P.O. Box 942883, Room W-202
Sacramento, CA 94283-0001

32. Bloodborne Pathogens

Provider shall adhere to California Division of Occupational Safety and Health (CAL-OSHA) regulations and guidelines pertaining to bloodborne pathogens.

33. Tuberculosis (TB) Testing

In the event that the services required under this Agreement will be performed within a CDCR institution/parole office/community based program, prior to the performance of contracted duties, contractors and their employees who are assigned to work with inmates/parolees on a regular basis shall be required to be examined or tested or medically evaluated for TB in an infectious or contagious stage, and at least once a year thereafter or more often as directed by CDCR. Regular basis is defined as having contact with inmates/parolees in confined quarters more than once a week.

Contractors and their employees shall be required to furnish to CDCR, at no cost to CDCR, a form CDCR 7336, "Employee Tuberculin Skin Test (TST) and Evaluation," prior to assuming their contracted duties and annually thereafter, showing that the contractor and their employees have been examined and found free of TB in an infectious stage. The form CDCR 7336 will be provided by CDCR upon contractor's request.

34. Tobacco-Free Environment

Pursuant to Penal Code Section 5030.1, the use of tobacco products by any person on the grounds of any institution or facility under the jurisdiction of the Department of Corrections and Rehabilitation is prohibited.